

Order Sheet  
**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

Cr. B. A. No. S- 875 of 2021

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DATE	ORDER WITH SIGNATURE OF JUDGE
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08.11.2021

For hearing of the main case

Mrs. Razia Ali Zaman, Advocate along with applicant

Mr. Shankar Das, Advocate for Complainant

Ms. Safa Hisbani, A.P.G. along with SIP Imran Hafeez SHO PS Kario Ghanwar district Badin & Aijaz Ahmed Shaikh SDPO SF Rahu.

**ORDER**

**ADNAN-UL-KARIM MEMON, J.-** Through instant Cr. Bail Application, applicant Ghulam Qadir seeks pre-arrest bail in Crime No. 64 of 2021 registered at police station Kario Ghanwar under Section 302, 342 & 34 PPC.

2. Earlier vide order dated 4.10.2021 without touching merits of the case, the applicant / accused was admitted to interim pre-arrest bail and today it is fixed for confirmation or otherwise.

3. The allegations against the applicant is that on 14.9.2021 he being a police officer came along with Ayaz Ali Kori, Aziz Kori & Ismail Kori at the house of Complainant; and, after maltreating her husband namely Aijaz Kori, forcibly took his custody to police station Kario Ghanwar; and, on the second day i.e. 15.9.2020, the husband of Complainant was found dead in police lockup, such FIR of the incident was lodged by the complainant with the allegations that the applicant in connivance with his accomplices has murdered Aijaz Kori (deceased). The applicant being apprehensive of his imminent arrest approached the trial court, whereby his pre-arrest bail was declined vide order dated 30.9.2021; hence he has approached this court for pre-arrest bail.

4. Mrs. Razia Ali Zaman learned counsel for the applicant has argued that the applicant is innocent and has falsely been implicated in this case; that the applicant is a computer operator; and, it was

not his duty to arrest any person and keep him in lockup without permission of SHO or Head Moharar; that the applicant was not posted at police station Kario Ghanwar where the deceased was found dead, hence he cannot confine the deceased in lockup at police station Kario Ghanwar; that all the P.Ws in the present case are close relatives and interested, hence they have hatched a conspiracy to rope in the applicant in the present crime; she lastly prayed for bail to the applicant.

5. Learned A.P.G, has opposed the bail application on the ground that the applicant is nominated in the crime report. The offense charged against the applicant entails capital punishment.

6. I have heard the learned counsel for the respective parties and perused the record.

7. The remedy of extra-ordinary concession of pre-arrest bail is meant to save innocent from false implication, rigors of trial, and humiliation. The Hon'ble Supreme Court in case of Gulshan Ali Solangi and others v. The State through P.G. Sindh (2020 SCMR 249) has graciously held as under:-

“grant of pre-arrest bail is a remedy routed into equity; at a cost to hamper the investigation, this judicial protection is extended, solely to save the innocent from the horrors of abuse of process of law with a view to protect his dignity and honor. It cannot be granted in every run-of-the-mill criminal case, particularly to the accused confronted prima facie charges structured upon material/ evidence, warranting custody, that too, on the basis of positions/pleas verification whereof, is consequent upon the recording of evidence.”

8. Prima-facie, the applicant could not be exempted from the investigation, for the purpose, the record has been examined which shows that role assigned to the applicant is torturing the husband of the complainant and taking his custody and lodging him in the police lockup without any criminal case, subsequently husband of the complainant was found hanged in police lockup.

9. It is by now a well-settled proposition of law that the accused in a criminal case cannot be granted anticipatory bail to subvert or undermine investigative procedure/process that essentially includes an arrest to bring the statutory exercise to its logical end for effective and meaningful prosecution of the offense through the collection of information/evidence consequent upon arrest.

10. The cumulative effect of the above discussion/ findings is that, while evaluating all available material tentatively, this Court is of tentative view that the applicant is specifically nominated by the complainant and her witnesses in the crime report and exact role is attributed to the applicant of causing torture and taking his custody and subsequent his death in police lockup, postmortem report corroborate the contents of the F.I.R. The applicant at this stage is not entitled to the concession of pre-arrest bail.

11. In view of the above, the instant bail petition is dismissed. Ad-interim bail granted to the applicant vide order dated 04.10.2021 is recalled.

12. Needless to mention that this is a tentative assessment for this bail application only, which shall not affect/influence the trial of this case in any manner.

JUDGE